

Rockport Board of Appeals  
June 25, 2013  
7:30 P.M.  
Rockport Public Library  
17 School Street, Rockport, MA

- 1) Call to order at 7:30 P.M. Members present John N. Rees (Chairing), Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace and Frederick Frithsen. Joyce Fossa is absent.
- 2) Hearing of Scott W. Story for a special permit and/or variance to raze a one and one half story residence and construct a two and one half story residence on the non-conforming, property at 4 White Way, Rockport
  - a) Opened 7:30 P.M. Closed 7:39 P.M.
  - b) Members of the Board sitting are Lars-Erik Wiberg (Presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio, and Frederick Frithsen.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Tim Thurman of Treehouse Design, 31 Poole's Lane, Rockport represented the petitioner.
    - i) The dwelling is very old and needs to be taken down and a new dwelling constructed within the legal setbacks.
    - ii) The lot coverage will increase to 13%.
    - iii) The proposed 2-story house will be less than 30 Feet in height.
    - iv) The lot is undersized and not legal. The houses on both sides also do not meet the size requirements for the area.
    - v) The only nonconformity is the size of the lot.
    - vi) The dwelling will not be detrimental to the neighborhood.
    - vii) A petition of support from some neighbors was submitted to the Board.
  - e) Gail Rehm 6 White Way, Rockport asked when the house would be demolished and Scott Story suggested that the old house be demolished 30 days after the issuance of an Occupancy Permit on the new house.
- 3) Hearing of Nenad and Amber Bazdar (prospective purchaser) for a variance and/or special permit to raze a set of existing one-story buildings and build a one and one-half story structure to be used as a pharmacy and retail store on non-conforming property at 124 Main Street, Rockport.
  - a) Opened 7:40 P.M. Continued to next Board Meeting.
  - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, John N. Rees, Lars-Erik Wiberg and Michael Bace.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Attorney Robert Visnick, 11 School St., Rockport represented the petitioners.
    - i) Asking for a change of use to construct a small local pharmacy.
    - ii) The project has 3 tracks that are presently being reviewed by the Planning Board and should be heard at their July 11, 2013 meeting.
    - iii) Pharmacy will be a modest structure and residential in appearance.
    - iv) The hardship is that it is zoned residential but has a business on it presently and the area looks like a commercial area.
    - v) Nenad Bazdar has lived in Rockport for 8 years and Amber much longer.
    - vi) It is their passion to own and run a small local pharmacy. They want to offer customers:

- (1) Handicapped bathrooms.
- (2) Conference room for private discussions.
- (3) A second floor for medical supplies and equipment.
- (4) Hope to carry a small amount of groceries
- vii) Peter Bergholtz asked what durable medical equipment will be available and was answered that they planned to carry wheelchairs, walkers, etc.
- viii) Alan Battistelli asked what else would be on the second floor and was told they planned for storage, bathroom, office space and sitting area for employees.
- ix) The entrance to the parking lot will be the same as now but are exploring a second entrance on Bluegate Lane.
- x) There will be about 6 employees.
- xi) Pharmacy will have regular posted hours.
- xii) The lot has not been subdivided but they plan to do so.
- xiii) 3 parking spaces will be for employees.
- xiv) There will be a 24-hour pager service for emergencies.
- xv) Peter Bergholtz asked how long they have been planning this. The Bazdars have been planning for years but couldn't find the right location until now and they plan on running this family business for years to come.
- e) Audience participation:
  - i) John Bennet of 126 Main Street, Rockport spoke in favor of the petitioners request.
  - ii) Joanne Mercadi from TLC at Home in Gloucester spoke to the great need for this type of local pharmacy.
  - iii) Armand Aparo 100 Marmion Way, Rockport spoke in support as it broadens the tax base and keeps shopping local.
  - iv) Karen Chambers of 108 Granite Street, Rockport is extremely supportive as she needs a local place to get medical equipment.
  - v) Amber Bazdar grew up in Rockport and she wants be part of and embrace the community. Michael Bace asked about the impact on traffic and Amber Bazdar said that she had approached this with the police department and that it shouldn't be an issue.
- f) The hearing was continued until the Board's July meeting in order to give the Planning Board time to hear the petitioners.
- 4) Hearing of Robert Bouley for a special permit /or variance to construct second level balcony on the existing two-story, two-dwelling, apartment building on the non-conforming property at 11 Broadway Avenue (Unit #2), Rockport.
  - a) Opened 8:15 P.M. Closed 8:28 P.M.
  - b) Members of the Board sitting are Tacy San Antonio (presiding), Charles W. Christopher, John N. Rees, Alan Battistelli and Frederick Frithsen.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Drew Hale, 17 Abbot Road, Gloucester represented the petitioners.
    - i) The plan is to build a balcony with 10 feet 6 inch wide by 5 feet projection.
    - ii) Other units have balconies and plan to blend this second floor balcony in with what is presently there.
    - iii) Below the balcony is a set of stairs.
    - iv) There will be a single door exit to the balcony.

- e) Frederick Frithsen and Alan Battistelli asked about the parking since the residence seemed to be parking in the Way rather than on the property. They were assured that the balcony would not affect the parking in any way.
  - f) Tacy San Antonio read a letter from Benjamin Peteo, 11 Broadway unit #1 in support of the petitioner.
- 5) Hearing of Gregory O'Brien and Abigail Cahill-O'Brien for a variance and/or special permit to construct a pergola on the nonconforming property at 55 South Street, Rockport.
- a) Opened 8:28 P.M. Closed 8:45 P.M.
  - b) Members of the Board sitting are Michael Bace (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Lars-Erik Wiberg.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Tom Stockton, 4 Landmark Lane, Rockport represented the petitioners.
    - i) Plan to build a pergola on NW side of building 10 feet from the lot line.
    - ii) The pergola is an accessory structure and 10 feet meets the requirements of the zoning bylaw.
    - iii) Doesn't feel it is part of the building residence.
    - iv) Will be built with permeable materials.
  - e) Audience participation:
    - i) Harry Newell and Susan Sadler, 53 South Street, Rockport sent letter in support of application.
    - ii) Mr. Fritz 13 Marshall Street, Rockport noted that the pergola would be attached to the house.
  - f) Lars-Erik Wiberg stated that since it is attached to the house it must be considered part of the structure much like a deck.
  - g) Charles W. Christopher felt that this is a new construction that will be within the required setback and therefore require a variance.
  - h) Petitioner's hardship is that they have a new baby that requires a more shaded area to play in.
  - i) The structure needs a 15 feet setback and this structure would encroach 5 feet into the setback.
- 6) Continued hearing of James and Carmen Beaton for a special permit and/or variance to construct additions to the one and one half story non-conforming dwelling at 43 Granite Street, Rockport.
- a) Opened 8:45 P.M. Closed 9:25 P.M.
  - b) Members of the Board sitting are Frederick Frithsen (presiding), Alan Battistelli, Lars- Erik Wiberg and Michael Bace.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Ellen Levine of Treehouse Design represented the petitioners.
    - i) Beatons have owned property for 22 years as a seasonal residence.
    - ii) They plan to make it their permanent residence.
    - iii) It is a nonconforming lot as it is less than the required size.
    - iv) The existing building is about 6 feet into the setback on the north side and it will stay within the existing footprint.
    - v) A new front entry with a covered area will be added to make a proper enclosed entry.
    - vi) Not adding to nonconformity.
    - vii) It will bring the lot coverage from 13% to 14%.

- viii) With the second floor addition it will bring the height from 26'3" to 26'6", an increase of 3 inches.
- ix) Going from a 1 ½ story to 2 story building.
- x) Removing the bedroom on the first floor and adding a bedroom to the second floor so the bedroom number will still be three.
- xi) This work will increase the house size by 47%.
- xii) There is no substantial detriment to the neighborhood.
- e) Audience participation
  - i) Two emails were submitted from neighbors in support of the project.
  - ii) Michael McCarthy from McCarthy & McCarthy, One Centre Street, Wakefield representing Trustees Ann & John Franco, owners of map 17 lots 52, 53 and 49A spoke in opposition of the petition.
    - (1) The Beaton's private sewer line goes through the Franco's property and it is failing and its usage should not be increased.
    - (2) The present structure is 2'8" into the setback and adding the second story addition into this setback would adversely effect his clients.
    - (3) The house would not be in character with the neighborhood.
    - (4) It would not be in harmony with the purpose and intent of the Bylaws.
    - (5) Alan Battistelli asked where the sewer line was and if it is possible to connect to the Granite Street sewer line. It was acknowledged that this had been discussed but nothing had been settled.
  - iii) James Beaton 43 Granite Street, Rockport
    - (1) Felt that the sewer was a separate issue and the DPW has not notified them of any sewer problems. Also, there is no gravity feed to Granite Street so it would be hard to accomplish.
    - (2) The building expansion doesn't increase the sewage there are still only 3 bedrooms and the laundry is just being moved to the second floor from the basement.
  - iv) Attorney Michael McCarthy reiterated that the problems will increase since it is going from seasonal to permanent and it could possibly be sold to a larger family.
- 7) Continued hearing of Christian and Marni Jones for a variance and/or special permit to replace the non-conforming dwelling at 3 Clark Avenue, Rockport.
  - a) Opened 9:25 P.M. Continued to July 30, 2013 meeting of the Board
  - b) Members of the Board sitting are Charles W. Christopher (presiding), John N. Rees, Alan Battistelli, Frederick Frithsen and Michael Bace.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) The petitioners have submitted a request for another continuance.
  - e) Alan Battistelli moved to grant the extension but the petition must be heard at the July Board meeting, as no further extensions will be granted. John N. Rees will write a letter to the petitioners informing them of this. It was seconded by Peter Bergholtz and passed unanimously with Charles W. Christopher, John N. Rees, Alan Battistelli, Frederick Frithsen and Michael Bace voting.
- 8) Continued hearing of Kathleen Starr for a special permit and/or variance to construct a sunroom and deck on non-conforming building at 8 Parker Street, Rockport.
  - a) Opened 9:30 P.M. Closed 9:36 P.M.
  - b) Members of the Board sitting are Charles W. Christopher (presiding), Peter Bergholtz, John N. Rees, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace.

- c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Kathleen Starr 8 Parker Street, Rockport asking for special permit for an enclosed 12X12 foot addition. The shed will be removed.
  - e) No audience participation.
- 9) Extension Requests
- a) Steve Graham requested an extension but never submitted it in writing so the request will not be addressed.
  - b) Frank Scalli requested a 6 month extension of his decision.
    - i) Alan Battistelli moved to extend it for 6 months as requested. Lars-Erik Wiberg seconded.
    - ii) It passed unanimously with John N. Rees, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace and Frederick Frithsen voting.
- 10) Discussion of Petitions
- a) Scott W. Story
    - i) Lars-Erik Wiberg moved to approve and Frederick Frithsen seconded.
    - ii) The motion passed unanimously with Lars-Erik Wiberg, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio, and Frederick Frithsen voting.
  - b) Nenad and Amber Bazdar continued to July meeting.
  - c) Robert Bouley
    - i) Charles W. Christopher made a motion to approve the addition of a deck. Frederick Frithsen seconded.
    - ii) Tacy San Antonio, Charles W. Christopher, John N. Rees and Frederick Frithsen voted in favor of the motion. Alan Battistelli abstained.
  - d) Gregory O'Brien and Abigail Cahill-O'Brien
    - i) The structure needs a variance to be built but there are no hardships.
    - ii) Lars-Erik Wiberg moved to deny the petition without prejudice. Peter Bergholtz seconded.
    - iii) Motion passed unanimously with Michael Bace, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Lars-Erik Wiberg voting.
  - e) James and Carmen Beaton
    - i) The change is in the shape of the house not the sewer line.
    - ii) The issue is the second story extension. Michael Bace could see no detriment to the neighborhood.
    - iii) Michael Bace moved to approve the petition and Alan Battistelli seconded.
    - iv) The vote was unanimous to approve the motion with Frederick Frithsen, Alan Battistelli, Lars-Erik Wiberg and Michael Bace voting.
  - f) Christian and Marni Jones hearing continued to July meeting.
  - g) Kathleen Starr
    - i) Frederick Frithsen moved to approve the petition and Peter Bergholtz seconded.
    - ii) The motion was approved unanimously with Frederick Frithsen, Alan Battistelli, Lars-Erik Wiberg and Michael Bace voting.
- 11) Approval of Minutes
- a) May 2013 Alan Battistelli moved to approve with a few minor corrections.
    - i) Peter Bergholtz seconded.
    - ii) The motion passed unanimously with John N. Rees, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace and Frederick Frithsen voting.

## 12) Election of Officers

- a) Alan Battistelli made a motion to add officer appointments to the agenda. Frederick Frithsen seconded and it passed unanimously with John N. Rees, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace and Frederick Frithsen voting.
- b) John N. Rees nominated Peter Bergholtz as chairman, Tacy San Antonio as Vice Chair and Charles W. Christopher as Clerk.
- c) Alan Battistelli moved to close nominations and John N. Rees seconded. Passed unanimously with John N. Rees, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher and Peter Bergholtz voting.
- d) Alan Battistelli moved to approve the nominations and John N. Rees seconded. The nominations were passed unanimously with John N. Rees, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz voting.

## 13) Old Business

- a) Deficiency error correction work will continue on improving the process.
- b) IT initiative Helen Barnett will check on the price of tablets.
- c) When continuations are published in the newspaper they will only include the name and address of the petitioners.
- d) Handbook of Mass. Land Use/Planning Law has arrived and will be on the shelf in the Town Clerk's Office.

## 14) Next Possible Meeting July 30, 2013

- 15) Motion to adjourn made by Alan Battistelli and seconded by Frederick Frithsen. Motion passed unanimously with John N. Rees, Tacy D. San Antonio, Alan Battistelli, Charles W. Christopher, Peter Bergholtz, Lars-Erik Wiberg, Michael Bace and Frederick Frithsen voting. Adjournment at 10:30 P.M.